



8 CFR Chapter I

[CIS No. 2555-14; DHS Docket No. USCIS-2016-0006]

1615-AC07

Ratification of Department Actions

AGENCY: Department of Homeland Security (DHS).

ACTION: Ratification.

SUMMARY: The Department of Homeland Security is publishing notification of the Secretary of Homeland Security's ratification of a rule.

DATES: The ratification was signed on March 31, 2021 and relates back to the original date of the action that it ratifies.

FOR FURTHER INFORMATION CONTACT: Leo (Chip) Boucher, Assistant General Counsel, Administrative Law, Office of the General Counsel, Department of Homeland Security Washington, DC 20528, (202) 282-9822.

SUPPLEMENTARY INFORMATION: On March 31, 2021, the Secretary of Homeland Security ratified a final rule entitled, EB-5 Immigrant Investor Program Modernization. *See* 84 FR 35750 (July 24, 2019). The Department is now publishing the ratification in the **Federal Register** out of an abundance of caution. Neither the ratification nor the publication is a statement that the ratified action would be invalid absent the ratification, whether published or otherwise.

Signed:

Adam Hunter,

Deputy Assistant Secretary for Immigration Policy, U.S. Department of Homeland Security.

APPENDIX

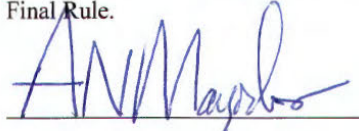
RATIFICATION

I am affirming and ratifying a prior action by Acting Secretary Kevin McAleenan, out of an abundance of caution, because of a Government Accountability Office (GAO) opinion, see B. 331650 (Comp. Gen. Aug. 14, 2020), and recent actions filed in federal court alleging that Mr. McAleenan's appointment as Acting Secretary of Homeland Security was not valid. *See, e.g., Guedes v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, 920 F.3d 1 (D.C. Cir. 2019) ("We have repeatedly held that a properly appointed official's ratification of an allegedly improper official's prior action . . . resolves the claim on the merits by remedy[ing] the defect (if any) from the initial appointment") (quotation marks omitted) (second alteration in original).

I have full and complete knowledge of the following action taken by Acting Secretary McAleenan:

- Final Rule, EB-5 Immigrant Investor Program Modernization, 84 Fed. Reg. 35,750 (July 24, 2019) (the "EB-5 Final Rule").

Pursuant to my authority as Secretary of Homeland Security, and based on my review of the EB-5 Final Rule, I hereby make a detached and considered affirmation and ratification of the EB-5 Final Rule.



Alejandro N. Mayorkas

Secretary of Homeland Security

3/31/2021
Date